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GOVERNMENT GAZETTE

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SUPPLEMENT

(SUPLEMENTO)

GOVERNMENT OF GOA, DAMAN AND DIU

Legislative Assembly of Goa, Daman and Diu

Legislature Department

LA/A/7/1731/69

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

The Goa, Daman and Diu Administration of Evacuee Property (Amendment) Bill, 1969

(Bill No. 7 of 1969)

A Bill further to amend the Goa, Daman and Diu Administration of Evacuee Property Act, 1964.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Act, 1969.

(2) This section and section 2, section 3 and clause (a) of section 4 shall be deemed to have come into force on the 24th December, 1964, and the rest of this Act shall come into force at once.

2. Amendment of section 2.—In the

Evacuee Property Act, 1964 (hereinafter referred to as the principal Act), in section 2,—

(a) in clause (b),—

(i) in the opening paragraph, the words 'who is not an Indian citizen and' shall be omitted;

(ii) in Explanation II, for the word 'grainful', the word "gainful" shall be substituted;

(b) after clause (h), the following clause shall be inserted, namely:—

"(hh) 'person' includes—

(i) an individual,

(ii) a Hindu undivided family,

(iii) a company,

(iv) a firm,

(v) an association of persons or a body of individuals, whether incorporated or not,

(vi) a local authority, and

(vii) every artificial juridical person, not falling within any of the preceding sub-clauses;".

3. Amendment of section 6.—In section 6 of the principal Act, in sub-section (1), for clause (b), the following clause shall be substituted, namely:—

"(b) in the case of property of an evacuee as defined in sub-clause (ii) of clause (b) of section 2, from the date of such transfer;".

4. Amendment of section 8.—In section 8 of the principal Act, in sub-section (2),—

(a) in clause (i), the words "or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person" shall be omitted;

(b) after clause (l) the following clause shall be inserted, namely:—

"(ll) dispose of the claim of co-sharer or partner in any property by purchase of non-evacuee share or by sale of evacuee share, either to the co-sharer or to any other person, or by selling the entire property and distributing the sale proceeds to the claimant according to his share, or by partitioning the property or take all such measures as he may consider necessary for the purpose of separating the interests of the evacuee from those of the claimants:

Provided that the Custodian shall not pass any order under this clause unless the co-sharer or partner in the property has been given reasonable opportunity of being heard;".

5. Substitution of new sections of section 22.— For section 22 of the principal Act, the following sections shall be substituted, namely:—

"22. Appeals.— Any person aggrieved by an order made under section 5, clause (ll) of sub-section (2) of section 8, section 18, section 31 or section 39, by the Custodian may prefer an appeal, in such manner, and within such time, as may be prescribed, to the tribunal constituted under section 22A and the decision of the tribunal shall be final.

22A. Appointment of Tribunal.— The Government may appoint any person or body of persons as tribunal under this Act.”.

6. Amendment of section 37.— (a) Section 37 of the principal Act may be renumbered as sub-section (1) of that section and in sub-section (1) as so renumbered, in clauses (b) and (c), after the word “Government”, the words “or the tribunal” shall be inserted;

(b) after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:—

“(2) Save as otherwise expressly provided in this Act, every order made by the Government or the tribunal or the Custodian under this Act shall be final and shall not be called in question in any court by way of appeal or revision or in any original suit or application or execution proceedings.”.

Financial memorandum

No financial commitment is involved in this Bill. There will be no extra expenditure in its enforcement.

Statement of objects and reasons

While implementing the Goa, Daman and Diu Administration of Evacuee Property Act, 1964, certain difficulties are experienced in its smooth implementation.

Under the said Act of 1964, a person who is an Indian Citizen, cannot be declared as an evacuee while who is a non-Indian can be declared as an evacuee under certain circumstances. This Bill seeks to amend the said Act of 1964 so as to provide suitable measures to do away with that discrimination between Indian Citizen and non-Indian Citizen.

This Amendment Bill also seeks to clarify the position regarding corporation, companies, etc., so that there may not be any confusion on the interpretation of the word ‘person’.

Clause 3 of the Bill seeks to amend Section 6(1) (b) of the said Act of 1964 to ensure that the properties which have been transferred without the prior approval of the Custodian on the basis of which such a person is eventually declared as an evacuee, so as to vest the properties in the Custodian, from the date of transfer instead from the date of notice given under Section 5(1) of the said Act of 1964.

As there is no provision in the said Act of 1964 for disposal of Composite properties, sub-clause (b) of clause 4 seeks to insert a new sub-clause (ll) in sub-section (2) of section 8 of the Act of 1964 so as to provide for the disposal of composite properties.

Panaji,

D. B. BANDODKAR

6th August, 1969.

Chief Minister.

Assembly Hall

R. L. SEGEL

Panaji,

Secretary to the Legislative

12th August, 1969.

Assembly of Goa, Daman and Diu..

Administrator's recommendation under section 23 of the Goa, Daman and Diu Union Territories Act, 1963.

In exercise of the powers conferred upon him by sub-section (1) of section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Goa, Daman and Diu Administration of Evacuee Property (Amendment) Bill, 1969.

LA/A/7/1723/69

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

The Hospicio do Sagrado Coração de Maria Hospital
(Margao) Bill, 1969

[Bill No. 8 of 1969]

A Bill to make better provision for the control, management and maintenance of the hospital commonly known as Hospital do Hospicio Margao, together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public health and to take over for that purpose the management of all the property belonging to the said hospital or held for the benefit thereof.

Whereas it is expedient in the public interest to make better provision for the control, management and maintenance of the hospital commonly known as Hospital do Hospicio Margao, together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public-

health and to take over for that purpose the management of all the property belonging to the said hospital or held for the benefit thereof;

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twentieth Year of the Republic of India as follows:—

1. Short title and commencement.—(1) This Act may be called the Hospicio do Sagrado Coração de Maria Hospital (Margao) Act, 1969.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) «Board» means the Board of Management of the Hospicio do Sagrado Coração de Maria Hospital (Margao);

(b) «Government» means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(c) «Hospicio Hospital» means the Hospicio do Sagrado Coração de Maria Hospital (Margao) together with the dispensaries attached thereto and used in connection therewith and includes all laboratories, libraries, wards and rooms used in connection with or as accessories to or adjuncts of the said hospital or dispensaries;

(d) «prescribed» means prescribed by rules made under this Act.

3. Incorporation.—(1) With effect from such date as the Government may, by notification in the Official Gazette, appoint (hereinafter referred to in this Act as the “appointed day”), the entire management and control of the Hospicio Hospital together with—

(a) all lands thereof and appurtenant thereto and all buildings, erections and fixtures on such lands,

(b) all furniture, equipments, stores, drugs, monies and other assets of the Hospicio Hospital, and

(c) all other properties and assets of the Hospicio Hospital which immediately before the appointed day vested in the Managing Committee of the Hospicio do Sagrado Coração de Maria under Portaria Provincial No. 1113 dated 13-4-1931,

shall stand transferred to and vest in the Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

4. Constitution of Board.—(1) The Board shall consist of five members to be nominated by the Government and shall include the following, namely:—

(a) an officer of the Directorate of Health Services, Government of Goa, Daman and Diu,

(b) an officer of the Finance Department, Government of Goa, Daman and Diu,

(c) two prominent medical practitioners residing in the Union territory of Goa, Daman and Diu and

(d) a Professor of the Goa Medical College, Panaji.

(2) The Government shall nominate a member of the Board to be the chairman thereof.

(3) The Chairman shall, with the previous approval of the Government, appoint a person to be the Secretary of the Board.

(4) All members of the Board and servants of the Hospicio shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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5. Resignation from Office by a Member.—A member of the Board may resign his office by giving notice in writing to the Government and he shall be deemed to have vacated his office with effect from the date on which the resignation is accepted.

6. Term of Office and Casual Vacancies.—(1) A member of the Board shall hold office for such term as the Government may direct in the order of his nomination.

(2) A casual vacancy in the office of a member of the Board shall be filled by fresh nomination and the member so nominated to fill the vacancy shall hold office only for the remainder of the term for which the member in whose place he is nominated would have held office.

7. Powers and duties of Board.—The Board shall exercise the following powers and perform the following duties, namely:—

(a) to maintain the Hospicio Hospital with a view to providing a high standard of medical care and attention to the general public without distinction of race, caste, creed, sex or age;

(b) to receive gifts, donations or benefactions from the Government and to receive bequests, donations and transfer of movable or immovable properties from any person or persons;

(c) to deal with any property belonging to or vested in the Board in such manner as the Board may deem fit for advancing the objects specified in clause (a); and

(d) to do such acts as may be necessary, incidental or conducive to the attainment of objects specified in clause (a).

8. Validity of acts of Board not to be questioned by reason of vacancy etc.—No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of, the Board.

9. Transfer of Property of the Hospicio do Sagrado Coração de Maria.—(1) As from the appointed day, the existing Managing Committee of the Hospicio do Sagrado Coração de Maria in relation to the Hospicio Hospital shall stand dissolved and all property, movable and immovable mentioned in section 3 and all rights, powers and privileges in respect of the Hospicio Hospital which, immediately before the appointed day, vested in the said Managing Committee shall vest in the Board.

(2) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequests, gifts

or trust in favour of the Hospicio do Sagrado Coração de Maria for the benefit or in respect of the Hospicio Hospital shall as from the appointed day, be construed as if the Board was therein named instead of the Hospicio do Sagrado Coração de Maria.

(3) As from the appointed day all contracts, debts and liabilities of the Hospicio Hospital shall be deemed to be contracts, debts and liabilities of the Board.

10. Creation of Hospicio Hospital Fund.—The Board shall, in accordance with the rules made by Government in this behalf, create and maintain a fund to be called the «Hospicio Hospital Fund» into which all receipts and income of the Board shall be paid and out of which all expenses and disbursements of the Board shall be made.

11. Power of Government to give directions.—The Government may from time to time give to the Board such directions as it may deem fit and necessary, and the Board shall carry out those directions.

12. Approval of Government to Board Budgets.—(1) The Board shall frame a budget for every financial year and submit the same to the Government for approval.

(2) The Government may approve the budget with or without modifications.

13. Power to supersede Board.—(1) If the Government is of the opinion that the Board is unable to perform, or has persistently made default in the performance of, the duties imposed on it by or under this Act, or has exceeded or abused its powers, or has not complied with the directions issued to it by the Government, the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that before issuing the notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Board.

(2) Upon the publication of the notification under sub-section (1),—

(a) all the members of the Board shall, as from the date of supersession, vacate their office as such members.

(b) all the powers and duties under the provisions of this Act to be exercised or performed by or on behalf of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct, and

(c) all property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further terms as it may consider necessary, or

(b) reconstitute the Board in the manner provided in section 4.

14. Power to make Rules.—(1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the belongings of the Board shall be deposited or invested,

(b) the mode of authentication of orders for payment of money by the Board,

(c) the form in which accounts shall be kept by the Board and audit and publication of such accounts,

(d) creation and maintenance of the fund under section 10.

(3) Every rule made under this section shall as soon as may be after it is made, be laid before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in the rule or the Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or permitted to be done under that rule.

15. Power of Board to make Regulations.—The Board may, with the previous approval of the Government, make regulations not inconsistent with the provisions of this Act and the rules made thereunder for all or any of the following purposes, namely:

(a) the manner in which meetings of the Board shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings,

(b) the manner in which a majority decision of the Board shall be obtained by circulation to the members of the matter requiring decision, and

(c) the appointment of such officers and servants as may be necessary for the purpose of carrying out the objects specified in section 7 and the terms and conditions of their service.

16. Powers to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires, by order do anything not inconsistent with this Act which appears to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

17. Repeal.—On the commencement of this Act, the provisions of Estatutos do Hospicio do Sagrado Coração de Maria de Margão, approved by Portaria Provincial No. 1113, of 13-4-1931, relating to the Hospicio Hospital (but not relating to the other activities of the Hospicio do Sagrado Coração de Maria), shall stand repealed.

Financial memorandum

The Bill provides for constitution of the Management Board for the hospital known as Hospicio at

Margão. The objects of the Management Board will be to provide a high standard of medical care and attention to the general public without distinction of race, caste, creed, sex or age more or less in the same manner as in Government hospitals. To achieve this object the Board will need grant-in-aid every year from the Government which is being paid even now. The grant-in-aid currently being paid for running of the Hospicio Hospital at Margão is Rs. 9 lakhs per annum. The expenditure on running this hospital is about Rs. 11.5 lakhs. The shortfall is met by the hospital from its own income. As the Management Board to be constituted under the Bill will be expected to provide hospital care in the same manner as in Government hospitals, the Board will have practically no income of its own. Therefore, the Board will have to be given cent per cent grant-in-aid by the Government. The amount of grant-in-aid is expected to be about Rs. 11.5 lakhs per annum. In addition to the recurrent grant-in-aid the hospitals will need about Rs. 5 lakhs as grant-in-aid for capital works such as expansion of facilities etc.

Memorandum of Delegated Legislation

Clause 10 enables the Government to make Rules for the creation and maintenance of a fund to be called the «Hospicio Fund». Clause 14 specifies the various matter in respect of which Rules may be made by the Government for achieving the objects of the Bill.

Clause 15 specifies the various matters in respect of which the Board may, with the approval of the Government make regulations.

The matters in respect of which powers have been delegated to make rules and regulations are matters of detail and procedure and as such the delegation of Rule making power is of normal and routine nature.

Statement of Objects and Reasons

The Hospital known as the "Hospicio do Sagrado Coração de Maria" at Margao was established under the provisions of Estatutos do Hospicio do Sagrado Coração de Maria de Margao as approved by Portaria Provincial No. 1113 of 13-4-1931. The experience has shown that it would be no longer possible to manage the Hospital in accordance with the provisions of the said Estatutos and since the financial position of the Hospital is not very sound, the Government of the Union Territory of Goa, Daman and Diu has to give annual grants-in-aid to enable the Hospital to provide medical care to the public at large. The object of the present Bill is to make better provision for the control, management and maintenance of the Hospital together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public health, and to transfer for that purpose the management of all the property belonging to the said Hospital or held for the benefit thereof to the Board of Management of the Hospicio do Sagrado Coração de Maria (Margao).

Panaji,
26th July, 1969.

Assembly Hall
Panaji,
12th August, 1969.

G. G. MAYEKAR
Minister for Public Health.

R. L. SEGEL
Secretary to the Legislative
Assembly of Goa, Daman and Diu.

Administrator's recommendation under section 23 of the Goa, Daman and Diu Union Territories Act, 1963.

In exercise of the powers conferred upon him by sub-section (3) of section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Hospicio do Sagrado Coração de Maria Hospital (Margao) Bill, 1969.

LA/A/7/1725/69

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

The Asilo de Nossa Senhora dos Milagres Hospital (Mapsá) Bill, 1969

(Bill No. 9 of 1969)

A Bill to make better provision for the control, management and maintenance of the hospital commonly known as Hospital do Asilo de Nossa Senhora dos Milagres Mapsá, together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public health and to take over for that purpose the management of all the property belonging to the said hospital or held for the benefit thereof.

Whereas it is expedient in the public interest to make better provision for the control, management and maintenance of the hospital commonly known as Hospital do Asilo de Nossa Senhora dos Milagres, Mapsá, together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public health and to take over for that purpose the management of all the property belonging to the said hospital or held for the benefit thereof.

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twentieth Year of the Republic of India as follows:

1. Short title and commencement.— (1) This Act may be called the Asilo de Nossa Senhora dos Milagres Hospital (Mapsá) Act, 1969.

(2) It shall come into force on such date as the Government may, by notification in the Official Gazette, appoint.

2. Definitions.— In this Act, unless the context otherwise requires,—

(a) "Board" means the Board of Management constituted under section 4;

(b) "Government" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(c) "Asilo Hospital" means the Asilo de Nossa Senhora dos Milagres Hospital (Mapsá-Goa) together with the dispensaries attached thereto and used in connection therewith and includes all laboratories,

libraries, wards and rooms used in connection with or as accessories to or adjuncts of the said hospital or dispensaries;

(d) "prescribed" means prescribed by rules made under this Act.

3. Incorporation.—(1) With effect from such date as the Government may, by notification in the Official Gazette, appoint (hereinafter referred to in this Act as the "appointed day") the entire management and control of the Asilo Hospital together with—

(a) all lands thereof and appurtenant thereto and all buildings, erections and fixtures on such lands,

(b) all furniture, equipments, stores, drugs, monies and other assets of the Asilo Hospital, and

(c) all other properties and assets of the Asilo Hospital which immediately before the appointed day vested in the Managing Committee of the Asilo de Nossa Senhora dos Milagres under Statutes do Asilo de Nossa Senhora dos Milagres de Mapuca approved by Portaria Provincial No. 1655 of 26th December, 1932 as altered by Portaria Provincial No. 3204 of 5th July, 1938

shall stand transferred to and vest in the Board.

(2) The Board shall be a body corporate having perpetual succession and a common seal and shall by the said name sue and be sued.

4. Constitution of Board.—(1) The Board shall consist of five members to be nominated by the Government and shall include the following, namely:—

(a) an officer of the Directorate of Health Services, Government of Goa, Daman and Diu,

(b) an officer of the Finance Department, Government of Goa, Daman and Diu,

(c) two prominent medical practitioners residing in the Union territory of Goa, Daman and Diu,

(d) a Professor of the Goa Medical College, Panaji.

(2) The Government shall nominate a member of the Board to be the chairman thereof.

(3) The Chairman shall, with the previous approval of the Government, appoint a person to be the Secretary of the Board.

(4) All members of the Board and servants of the Asilo Hospital shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

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5. Resignation from office by a member.—A member of the Board may resign his office by giving notice in writing to the Government and he shall be deemed to have vacated his office with effect from the date on which the resignation is accepted.

6. Term of office and casual vacancies.—(1) A member of the Board shall hold office for such term as the Government may direct in the order of his nomination.

(2) A casual vacancy in the office of a member of the Board shall be filled by fresh nomination and the member so nominated to fill the vacancy shall

hold office only for the remainder of the term for which the member in whose place he is nominated would have held office.

7. Powers and duties of Board.—The Board shall exercise the following powers and perform the following duties, namely:—

(a) to maintain the Asilo Hospital with a view to providing a high standard of medical care and attention to the general public without distinction of race, caste, creed, sex or age.

(b) to receive gifts, donations or benefactions from the Government and to receive bequests, donations and transfer of movable or immovable properties from any person or persons.

(c) to deal with any property belonging to or vested in the Board in such manner as the Board may deem fit for advancing the objects specified in clause (a), and

(d) to do such acts as may be necessary, incidental or conducive to the attainment of objects specified in clause (a).

8. Validity of acts of Board not to be questioned by reasons of vacancy etc.—No act of the Board shall be deemed to be invalid merely by reason of any vacancy in, or any defect in the constitution of, the Board.

9. Transfer of property of Asilo de Nossa Senhora dos Milagres.—(1) As from the appointed day, the existing Managing Committee of the Asilo de Nossa Senhora dos Milagres in relation to the Asilo Hospital shall stand dissolved and all property, movable and immovable mentioned in section 3 and all rights, powers and privileges in respect of the Asilo Hospital which, immediately before the appointed day, vested in the said Managing Committee shall vest in the Board.

(2) Any will, deed or other document, whether made or executed before or after the commencement of this Act, which contains any bequests, gifts or trust in favour of the Asilo de Nossa Senhora dos Milagres for the benefit or in respect of the Asilo Hospital shall, as from the appointed day, be construed as if the Board was therein named instead of the Asilo de Nossa Senhora dos Milagres.

(3) As from the appointed day all contracts, debts and liabilities of the Asilo Hospital shall be deemed to be contracts, debts and liabilities of the Board.

10. Creation of Asilo Hospital Fund.—The Board shall, in accordance with the rules made by the Government in this behalf, create and maintain a fund to be called the "Asilo Hospital Fund" into which all receipts and income of the Board shall be paid and out of which all expenses and disbursements of the Board shall be made.

11. Power of Government to give directions.—The Government may from time to time give to the Board such directions as it may deem fit and necessary, and the Board shall carry out those directions.

12. Approval of Government to Board budgets.—(1) The Board shall frame a budget for every financial year and submit the same to the Government for approval.

(2) The Government may approve the budget with or without modifications.

13. Power to supersede Board.—(1) If the Government is of the opinion that the Board is unable to perform, or has persistently made default in the performance of the duties imposed on it by or under this Act, or has exceeded or abused its powers, or has not complied with the directions issued to it by the Government, the Government may, by notification in the Official Gazette, supersede the Board for such period as may be specified in the notification:

Provided that before issuing the notification under this sub-section, the Government shall give a reasonable opportunity to the Board to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Board.

(2) Upon the publication of the notification under sub-section (1),—

(a) all the members of the Board shall, as from the date of supersession, vacate their office as such members;

(b) all the powers and duties under the provisions of this Act to be exercised or performed by or on behalf of the Board shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct, and

(c) all property vested in the Board shall, during the period of supersession, vest in the Government.

(3) On the expiration of the period of supersession specified in the notification issued under sub-section (1), the Government may—

(a) extend the period of supersession for such further term as it may consider necessary, or

(b) reconstitute the Board in the manner provided in section 4.

14. Power to make rules.—(1) The Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the manner in which the belongings of the Board shall be deposited or invested,

(b) the mode of authentication of orders for payment of money by the Board,

(c) the form in which accounts shall be kept by the Board and audit and publication of such accounts,

(d) creation and maintenance of the fund under section 10.

(3) Every rule made under this section shall, as soon as may be after it is made, be laid before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following, the Assembly agrees in making any modification in the rule or the Assembly agrees that the rule should not be made and notifies such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case

may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or permitted to be done under that rule.

15. Power of Board to make regulations.—The Board may, with the previous approval of the Government make regulations not inconsistent with the provisions of this Act and the rules made there under for all or any of the following purposes, namely:—

(a) the manner in which meetings of the Board shall be convened, the quorum for the transaction of any business thereat and the procedure at such meetings,

(b) the manner in which a majority decision of the Board shall be obtained by circulation to the members of the matter requiring decision, and

(c) the appointment of such officers and servants as may be necessary for the purpose of carrying out of the objects specified in section 7 and the terms and conditions of their service.

16. Powers to remove difficulties.—If any difficulty arises in giving effect to the provisions of this Act, the Government may, as occasion requires, by order do anything not inconsistent with this Act which appears to it to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry of a period of two years from the commencement of this Act.

17. Repeal.—On the commencement of this Act, the provisions of Estatutos de Asilo de Nossa Senhora dos Milagres de Mapuça approved by Portaria Provincial No. 1655 of 26th December, 1932 as altered by Portaria Provincial No. 3204 of 5th July, 1938 relating to the Asilo Hospital (but not relating to other activities of the Asilo de Nossa Senhora dos Milagres), shall stand repealed.

Financial Memorandum

The Bill provides for constitution of the Management Board for the hospital known as Asilo at Mapsa. The objects of the Management Board will be to provide a high standard of medical care and attention to the general public without distinction of race, caste, creed, sex or age more or less in the same manner as in Government hospitals. To achieve this object, the Board will need grant-in-aid every year from the Government which is being paid even now. The grant-in-aid currently being paid for running of the Asilo Hospital at Mapsa is Rs. 6 lakhs per annum. The actual expenditure on running this hospital is approximately Rs. 8.5 lakhs. The shortfall is met by the hospital from its own income. As the Management Board to be constituted under the Bill will be expected to provide hospital care in the same manner as in Government hospitals, the Board will have practically no income of its own. Therefore, the Board will have to be given cent per cent grant-in-aid by the Government. The amount of grant-in-aid is expected to be about Rs. 8.5 lakhs per annum. In addition to the recurrent grant-in-aid, the hospital will need about Rs. 5 lakhs immediately as grant-in-aid for capital works such as expansion of facilities etc.

Memorandum of Delegated Legislation

Clause 10 enables the Government to make Rules for the creation and maintenance of a fund to be called the «Asilo Fund». Clause 14 specifies the various matters in respect of which Rules may be made by the Government for achieving the objects of the Bill.

Clause 15 specifies the various matter in respect of which the Board may, with the approval of the Government, make regulations.

The matters in respect of which powers have been delegated to make rules and regulations are matters of detail and procedure, and as such the Delegation of Rule making power is of normal and routine nature.

Statement of Objects and Reasons

The Hospital known as the «Nossa Senhora dos Milagres» Hospital at Mapsa was established under the provisions of Estatutos de Asilo de Nossa Senhora dos Milagres Mapuça approved by Portaria Provincial No. 1655 of 26th December, 1932. The experience has shown that it would be no longer possible to manage the Hospital in accordance with the provisions of the said Estatutos, and since the financial position of the Hospital is not very sound, the Government of the Union Territory of Goa, Daman and Diu has to give annual grants-in-aid to enable the Hospital to provide medical care to the public at large. The object of the present Bill is to make better provision for the control, management and maintenance of the Hospital together with the dispensaries attached thereto and used in connection therewith with a view to the promotion of public health, and to transfer for that purpose the management of all the property belonging to the said Hospital or held for the benefit thereof to the Board of Management of the Nossa Senhora dos Milagres Hospital, Mapsa.

Panaji,
26th July, 1969.

G. G. MAYEKAR
Minister for Public Health.

Assembly Hall
Panaji,
12th August, 1969.

R. L. SEGEL

Secretary to the Legislative
Assembly of Goa, Daman and Diu.

Administrator's recommendation under section 23 of the Goa, Daman and Diu Union Territories Act, 1963.

In exercise of the powers conferred upon him by sub-section (3) of section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly of Goa, Daman and Diu the introduction and consideration of the Asilo de Nossa Senhora dos Milagres Hospital (Mapusa) Bill, 1969.

LA/A/7/1745/69

In exercise of the powers conferred on him by rule 117 of the Rules of Procedure and Conduct of Business of the Legislative Assembly of Goa, Daman and Diu, the Speaker has ordered publication of the following Bill for general information.

The Goa, Daman and Diu Khar Lands Bill, 1969

ARRANGEMENT OF CLAUSES

- | | |
|--------|--|
| Clause | 1 — Short title, extent and commencement. |
| » | 2 — Definitions. |
| » | 3 — Establishment of Khar Lands Development Board. |
| » | 4 — Term of office; vacancies. |
| » | 5 — Incorporation of Board. |
| » | 6 — Power of Board to make bye-laws. |
| » | 7 — Appointment of officers and servants. |
| » | 8 — Powers and duties of Board. |
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| » | 10 — Publication of scheme. |
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| » | 12 — Power of Government to sanction scheme with or without modification. |
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| » | 15 — Power to vary scheme. |
| » | 16 — Variation to form part of the scheme. |
| » | 17 — Power to revoke scheme. |
| » | 18 — Refund of contribution and payment of compensation when scheme is revoked. |
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| » | 20 — Power of Board to make regulations. |
| » | 21 — Maintenance committee for Units. |
| » | 22 — Acquisition of land, right or interest. |
| » | 23 — Claim for compensation for consequential damage. |
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| » | 25 — No compensation in certain cases for use or removal of earth. |
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| » | 27 — Contribution towards cost of scheme. |
| » | 28 — Levy of annual maintenance and sinking fund contribution. |
| » | 29 — Liability of person in possession of land to pay contribution. |
| » | 30 — Presentation of budget estimates. |
| » | 31 — Restriction on unbudgeted expenditure. |
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| » | 33 — Provision for audit. |
| » | 34 — Supply of copies of budget and accounts. |
| » | 35 — Fund. |
| » | 36 — Sinking fund. |
| » | 37 — Cutting of trees, grass, etc. prohibited. |
| » | 38 — Damage to embankment or trees prohibited. |
| » | 39 — Grazing on embankment prohibited. |
| » | 40 — Penalty. |
| » | 41 — Recovery of amounts due. |
| » | 42 — Right of entry. |
| » | 43 — Inquiries to be held. |
| » | 44 — Registration of document, plan or map in connection with scheme not required. |
| » | 45 — Certain person to be public servants. |
| » | 46 — Protection of person acting in good faith. |
| » | 47 — Rules. |
| » | 48 — Repeal and amendment. |
| » | 49 — Power to remove difficulties. |

The Goa, Daman and Diu Khar Lands Bill, 1969

(Bill No. 10 of 1969)

A Bill to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Union territory of Goa, Daman and Diu by the construction and maintenance of embankments and for certain other matters.

Whereas it is expedient to provide for the protection and improvement of khar lands and the reclamation of tidal lands in the Union territory of Goa, Daman and Diu by the construction and maintenance of embankments and for certain other matters:

Be it enacted by the Legislative Assembly of Goa, Daman and Diu in the Twentieth Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**— (1) This Act may be called the Goa, Daman and Diu Khar Lands Act, 1969.

(2) It extends to the Union territory of Goa, Daman and Diu.

(3) It shall come into force on such date as the Government may, by notification in the *Official Gazette*, appoint:

Provided that different dates may be appointed for different areas and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the coming into force of that provision in the area where it has been brought into force.

2. Definitions.— In this Act, unless there is anything repugnant in the subject or context—

(a) «Board» means the Goa, Daman and Diu Khar Lands Development Board established under section 3;

(b) «Chairman» means the Chairman of the Board;

(c) «Collector» means the Collector of Goa, the Collector of Daman and the Civil Administrator of Diu or any person appointed by the Government to perform the functions of the Collector under this Act;

(d) «embankment» includes—

- (i) every bank, dam, wall and dyke made or used for excluding water from, or retaining water upon, any tidal or khar land or for excluding salt water from entering into any adjoining sweet water nallas;
- (ii) every sluice, spur, groyne, training wall, berm or other work annexed to, or portion of, any such embankment;
- (iii) every bank, dam, dyke, wall, groyne or spur made or erected for the protection of any such embankment or of any tidal or khar land from erosion or overflow by or of tides, waves or waters; and
- (iv) all buildings intended for inspection and supervision;

(e) «Government» means the Administrator of the Union territory of Goa, Daman and Diu appointed under Article 239 of the Constitution;

(f) «khar land» means such tidal land as is made cultivable by protecting it by means of an embankment from the sea or tidal river, and includes all such land in whatever manner described, whether as khar, khajan or otherwise;

(g) «land owner» means a person owning land and includes a person holding land from the Government or a Comunidade under afforamento, emphyteusis or provisional concession;

(h) «member» means a member of the Board;

(i) «prescribed» means prescribed by rules made under this Act;

(j) «sea» includes bay, inlet, creek or an arm of the sea;

(k) «tenant» means a lessee and includes a person deemed to be a tenant under the provisions of the Goa, Daman and Diu Agricultural Tenancy Act, 1964. The term «landlord» shall be construed accordingly;

(l) «tidal land» means such parts of bed or shore of the tidal water as are covered and uncovered by

the flow and ebb of the tide at ordinary spring tides together with the adjoining bed or shore not exceeding four hundred metres in distance from the spring tide mark;

(m) «unit» means a unit formed by the Board under sub-section (2) of section 8 or under section 21.

3. Establishment of Khar Lands Development Board.— (1) The Government shall establish a Khar Lands Development Board for the Union territory of Goa, Daman and Diu.

(2) The Board shall consist of a Chairman and twelve other members as follows:

- (i) the Development Commissioner to the Government, *ex-officio*;
- (ii) the Principal Engineer, Public Works Department, Goa, Daman and Diu, *ex-officio*;
- (iii) the Collector of Goa, *ex-officio*;
- (iv) the Secretary to the Government, Revenue Department, *ex-officio*;
- (v) the Director of Agriculture, Goa, Daman and Diu, *ex-officio*;
- (vi) the Captain of Ports, Goa, Daman and Diu, *ex-officio*;
- (vii) the Director of Fisheries, Goa, Daman and Diu, *ex-officio*;
- (viii) five members nominated by the Government, four representing the Goa District and one representing the Daman District.

(3) The Chairman of the said Board shall be appointed by the Government and shall hold office for three years from the date of his appointment.

(4) The names of members appointed or nominated under this section shall be published in the *Official Gazette*.

4. Term of office; vacancies.— (1) The members other than *ex-officio* members shall hold office for a period of three years from the date of the publication of their names under section 3.

(2) If any such member—

(a) dies; or

(b) is absent from the meetings of the Board for more than three consecutive meetings of the Board; or

(c) leaves the Union territory of Goa, Daman and Diu with the intention of being absent therefrom for more than three consecutive months; or

(d) resigns; or

(e) refuses to act or becomes incapable of acting; his office shall thereupon become vacant.

(3) All casual vacancies among the members other than the *ex-officio* members shall be filled up as soon as it conveniently may be by nomination or appointment under section 3; and the person nominated or appointed to a casual vacancy shall hold office so long as the member in whose place he is nominated or appointed would have held it if the vacancy had not occurred.

(4) No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of the Board.

5. Incorporation of Board.—The Board constituted under section 3 shall be a body corporate by the name of «The Goa, Daman and Diu Khar Lands Development Board» and shall have perpetual succession and a common seal and may sue and be sued in its corporate name and shall be competent to acquire and hold property both movable and immovable and to contract and to do all things necessary for the purposes of this Act.

6. Power of Board to make bye-laws.—The Board may with the previous sanction of the Government make bye-laws consistent with this Act and the rules made thereunder for all or any of the following matters:—

- (a) the manner in which its business shall be transacted;
- (b) the definition of its power to enter into contracts, which shall be binding on it and the manner in which such contract shall be executed;
- (c) any other matter for which provision is required to be made for the efficient discharge of its duties or conduct of its business.

7. Appointment of officers and servants.—(1) The Government may appoint the Secretary and such other officers and servants as may be required to enable the Board to discharge its functions under this Act.

(2) The Board may, with the previous sanction of the Government, consult such technical advisers, as it thinks necessary for the purpose of carrying out the objects of this Act and they shall be paid such remuneration as may be determined by the Board with the previous sanction of the Government.

(3) The officers and servants appointed under sub-section (1) shall be the servants of the Government and they shall draw their pay and allowances from the Government revenues.

8. Powers and duties of Board.—(1) It shall be the duty of the Board to promote the development of khar lands in the most efficient and economical manner.

(2) Without prejudice to the generality of the foregoing power, the Board may—

- (a) cause survey to be made of all the khar and tidal lands in the Union territory of Goa, Daman and Diu to which this Act applies;
- (b) prepare a list of—
 - (i) all embankments;
 - (ii) the lands benefited or to be protected by each such embankment,
 - (iii) the names of landlords and tenants of
- (c) form units having regard to the contours of embankments constructed or to be constructed for the protection of lands and the homogeneity of the plots of lands protected or to be protected thereby;
- (d) prepare schemes for the construction, maintenance and preservation of embankments and other prescribed objects;
- (e) remove encroachments on inland waterways;
- (f) supervise all work in connection with the better cultivation of khar lands;

(g) reclaim tidal lands for the purpose of bringing them under cultivation, prepare scheme for rearing up prawns and other fish in the khar lands; and

(h) generally do all that is necessary for carrying out the objects of the Act.

9. Power of Board to prepare scheme.—(1) The Board may prepare a scheme for each unit for the purpose of carrying out its duties under section 8.

(2) A scheme prepared under sub-section (1) shall contain the following particulars, namely—

- (i) the objects of the scheme;
- (ii) the approximate area of the lands likely to be included in or affected by the scheme;
- (iii) a plan showing the approximate area included in or affected by the scheme;
- (iv) the persons, including the Government and the Comunidade, affected by the scheme;
- (v) the kind of embankment to be constructed or maintained under the scheme;
- (vi) a detailed estimate of the cost of the scheme;
- (vii) such other particulars as may be prescribed.

10. Publication of scheme.—(1) The scheme prepared under section 9 shall be published in the *Official Gazette* and in the prescribed manner in the village in which the lands proposed to be included in the scheme are situated.

(2) The Board shall, on publication of the scheme, require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to such person as the Board may authorise in this behalf or appear before him within one month of the publication of the scheme in the *Official Gazette* under sub-section (1) or within fifteen days from the date of the publication of the scheme in the village under sub-section (1), whichever period expires later.

11. Report of authorised person.—(1) The person authorised under sub-section (2) of section 10 shall hear such objections as are made to him in person, consider all objections duly submitted under the said sub-section (2) and submit his report together with the objections to the Board.

(2) Such person may, while submitting his report under sub-section (1) recommend any modifications which in his opinion are required in any of the particulars contained in the scheme prepared by the Board under section 9.

12. Power of Government to sanction scheme with or without modification.—(1) After consideration of the objections and the report submitted to it under sub-section (1) of section 11, the Board shall within the period prescribed submit the draft scheme with any modifications which it may have made therein together with the objections forwarded to it, to the Government and shall at the same time apply for its sanction.

(2) After receiving such application and after making such inquiry, as it may think fit, the Government may, within the period prescribed, sanction the scheme with or without modification and subject to

such conditions as it may think fit to impose or refuse to give sanction.

(3) If the scheme is sanctioned under sub-section (2), it shall be published in the *Official Gazette* and in the prescribed manner in the village in which the lands included in the scheme are situated.

(4) In considering the objections, the decision of the Board on the question whether or not any land included in the scheme is benefited by, or will be protected under, the scheme shall be conclusive evidence on the question.

13. Effect of scheme. — On the date on which the scheme is published in the *Official Gazette* under sub-section (3) of section 12, it shall come into force and shall have effect as if it were enacted in this Act.

14. Execution of scheme. — (1) After the scheme has come into force under this Act the Board shall execute the scheme in accordance with the rules prescribed in that behalf.

(2) After the scheme is fully executed the Board shall notify the date of completion of the scheme to the persons liable to pay contribution under section 27.

15. Power to vary scheme. — (1) If after the scheme has come into force, the Board considers that the scheme is defective on account of an error, irregularity or informality, the Board may apply to the Government for the variation of the scheme, in the manner specified in the application.

(2) (a) If the Government is satisfied that the variation proposed by the Board is on account of an error, irregularity or informality which does not vary the scheme in any material particulars, the Government may, by a notification in the *Official Gazette*, sanction the variation.

(b) If the Government is satisfied that the variation proposed by the Board varies the scheme in any material particulars, the Government shall require the Board to follow the provisions of sections 10, 11 and 12 in respect of such variation, and the provisions of section 10, 11 and 12 shall apply in relation to such variation, as if such variation was itself a scheme.

16. Variation to form part of the scheme. — The variation sanctioned under section 15 shall take effect on the date on which the notification is published in the *Official Gazette* under clause (a) of sub-section (2) of section 15 or on the date on which the variation is published under sub-section (3) of section 12, as the case may be, as if it were incorporated in the scheme.

17. Power to revoke scheme. — If upon an application made by the Board for the purpose, the Government is satisfied that it is necessary so to do, the Government may at any time, by notification in the *Official Gazette*, revoke the scheme, notwithstanding anything hereinbefore contained.

18. Refund of contribution and payment of compensation when scheme is revoked. — If any scheme which has come into force is revoked under section 17, any person who has paid any contribution as required under section 27, shall be entitled to the refund of the amount of the contribution. If any

person who has incurred any expenditure for the purpose of complying with any regulation made under section 20, such person shall also be entitled to receive such compensation as the Board may determine.

19. Further power to revoke scheme in other cases. — Notwithstanding anything in this Act, if upon an application made by the Board, the Government is satisfied that landlords or tenants or owners of lands benefited or protected by embankments included in a scheme which has come into force, do not co-operate with the Board in the proper maintenance and repairs thereof, or such maintenance and repairs are no longer economical or technically feasible on account of heavy floods, tempests, high tides, change of the course of a river, stream, nalla or creek or any natural calamity, the Government may, by notification in the *Official Gazette*, revoke the scheme and upon such revocation the provisions of this Act (except section 41) shall cease to apply to such scheme. No person shall be entitled to the refund of any amount of the contribution or to any compensation upon such revocation:

Provided that before issuing a notification under this section, the Government shall give a reasonable opportunity to such landlords or tenants or owners to show cause why the scheme should not be revoked and shall consider the explanations and objections, if any, of such landlords or tenants or owners.

20. Power of Board to make regulations. — For the purpose of carrying out the objects of the scheme which has come into force under this Act, the Board may make regulations requiring any person or class of persons who in the opinion of the Board is or are interested in or affected by the scheme or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.

21. Maintenance Committee for Units. — (1) The Board shall appoint a Maintenance Committee for each unit to be constituted in the prescribed manner and it shall be the duty of the Committee so appointed to maintain and repair embankments included in the Unit to which the scheme relates. The Committee shall exercise such powers and perform such other duties as the Board may determine.

(2) The Maintenance Committee shall be a body corporate by the name of «The Maintenance Committee—Unit», and shall be competent to contract and do all such things necessary for the purpose of this Act. The Committee shall act through its Chairman.

(3) Without prejudice to the generality of the foregoing power, it shall be the duty of the Maintenance Committee —

- (i) to maintain, repair and keep watch on the embankments included in the unit in accordance with the direction which may be issued from time to time by the Secretary of the Board;
- (ii) to operate the sluice gates within the unit in accordance with the direction which may be issued from time to time by the Secretary;
- (iii) to ensure that fishing is done within the unit only by the persons authorised by

- the Board under section 26 and in accordance with the conditions set out in the licence and to prohibit any unauthorised fishing in the area within the unit;
- (iv) to prohibit the cutting of any trees or grass growing on the embankment or within a distance of two metres from the base of the embankment;
 - (v) to plant and rear such species of trees on the embankment or within a distance of two metres from the base of the embankment as may be directed by the Secretary of the Board;
 - (vi) to do such other acts as are necessary for the maintenance and repair of the embankments.

(4) To enable the Maintenance Committee to perform its duties, each Committee shall be paid by the Board such annual grants as may be sanctioned from time to time by the Board having regard to the embankments in its charge.

(5) If the Board is of the opinion that a Maintenance Committee is unable to perform or has persistently made default in the performing of the duties imposed on it by or under this Act, or has exceeded or abused its powers, or has failed to carry out the directions issued to it by the Board or its officers, the Board may by order in writing supersede the Maintenance Committee for such period as may be specified in the order:

Provided that before issuing the order under this sub-section, the Board shall give a reasonable time to the Maintenance Committee to show cause why it should not be superseded and shall consider the explanation and objections, if any, of the Maintenance Committee.

(6) Upon the passing of the order under sub-section (5) superseding the Maintenance Committee —

- (a) all the members of the Maintenance Committee shall, as from the date of supersession, vacate their office as such members;
- (b) all the powers and duties under the provisions of this Act to be exercised or performed by or on behalf of the Maintenance Committee shall, during the period of supersession, be exercised and performed by such person or persons as the Government may direct;
- (c) the property vested in the Maintenance Committee shall, during the period of supersession, vest in the Board; and
- (d) all moneys with the Chairman of the superseded Maintenance Committee shall be handed over to the person or persons as the Board may direct within such period as may be specified, failing that the said moneys shall be recovered from the said Chairman as arrears of land revenue and paid to the person or persons as the Board may direct.

(7) On the expiration of the period of supersession specified in the order issued under sub-section (5) the Board may —

- (i) extend the period of supersession for such further term as it may consider necessary; or;

(ii) re-constitute the Maintenance Committee in the manner provided in sub-section (1).

22. Acquisition of land, right or interest. — If at any time, on an application of the Board, it appears to the Government that any land or the right or interest of any person in any land should for the purposes of any scheme under this Act be compulsorily acquired, it shall be lawful for the Government to publish notification to that effect in the *Official Gazette*. The notification so published shall be deemed to be a declaration under section 6 of the Land Acquisition Act, 1894, and shall be conclusive as if it was made under the said provision and the land, right or interest in the land shall be deemed to be needed for a public purpose within the meaning of the said Act. On the publication of the notification, the Collector shall proceed to take order for the acquisition of the land, right or interest, as the case may be, and the provisions of the said Act shall *mutatis mutandis* apply to the determination of the amount of compensation, the apportionment of the compensation and other matters relating to the acquisition of the said land, right or interest. The Government may make rules in all matters connected with the enforcement of the said provisions in so far as they are applicable to the acquisition of such land, right or interest.

23. Claim for compensation for consequential damage. — Subject to the provisions of section 25, whenever any land other than land acquired for the purposes of this Act or any right of fishery, right of drainage, right of the use of water or other right of property shall have been injuriously affected by any act done, or any scheme executed, under the provisions of this Act, the person in whom such property or right is vested may prefer a claim in writing to the Collector for compensation and thereupon the provisions of the Land Acquisition Act, 1894, shall, as far as may be, *mutatis mutandis*, apply for the determination of the compensation, apportionment and payment thereof.

24. Limitation to claim for compensation. — No claim under section 23 shall be entertained if it is made later than two years next after the completion of the work by which such right is injuriously affected.

25. No compensation in certain cases for use or removal of earth. — Any land which, before the commencement of this Act, has been used for the purpose of obtaining earth or other materials for the construction or repair of any embankment shall be deemed to be at the disposal of the Board for such purpose without payment of compensation for the use or removal of such earth or other materials.

26. Power of Board to regulate fishing rights. — (1) Notwithstanding any custom, usage, law or contract to the contrary no person shall fish or exercise the right of fishery in any water or any tidal or khār land to which the provisions of this Act apply except under a licence granted by the Board in this behalf.

(2) The licence granted under sub-section (1) shall be granted on the payment of such fees and subject to such restrictions and on such conditions and shall be in such form and contain such particulars as may be prescribed.

27. Contribution towards cost of scheme.—(1) The cost of the scheme which has come into force under section 13 shall be met by contribution between the Government, the land owners, the landlords and the tenants thereof in accordance with the following provisions, namely:—

(a) The Government shall contribute 50 per cent of the cost and if lands included in the scheme are not leased, 50 per cent of the cost shall be borne by the land owners.

(b) If all or any of the lands included in the scheme are leased, 8 per cent of the cost shall be borne by the landlords, notwithstanding anything to the contrary contained in any law, agreement, custom or usage relating to the liability of the tenants to pay such cost and 42 per cent of the cost shall be borne by the tenants.

(c) If the lands included in a scheme are held by more than one land owner, landlord or tenant and if any dispute arises as to the amount of contribution to be paid by such landlord, landowner or tenant, the question shall be referred to the Mamlatdar and the decision of the Mamlatdar, subject to an appeal to the Collector within sixty days from the date of such decision, shall be final.

(2) The contribution payable under sub-section (1), shall be paid in ten equal or nearly equal annual instalments. The first instalment shall be paid before the 31st December of the year in which crops are raised for the first time after the date of completion of the scheme notified by the Board under sub-section (2) of section 14. The subsequent instalments shall be paid before the 31st December of each succeeding year.

(3) Interest at the rate of six per cent per annum shall be payable on the instalment paid after the period prescribed in sub-section (2).

(4) The Government may prescribe by rules made in this behalf the manner in which and the extent to which the contribution payable by the landlords, land owners and tenants under this section may be levied in lieu of cash payment.

(5) The contribution payable by the landlords, the land owners and the tenant in respect of any land shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.

28. Levy of annual maintenance and sinking fund contribution.—(1) All landlords, landowners and tenants of lands benefited or protected by embankments included in a scheme under this Act and of lands included in the units formed under section 8 shall pay to the Board an annual maintenance contribution (which shall include supervision charges) and also an annual sinking fund contribution. The two contributions shall be levied and paid in such manner and at such rates and subject to such conditions, if any, as may be prescribed.

(2) The decision of the Board on the question whether any land is benefited or protected by an embankment under this Act shall be conclusive evidence on such question.

(3) Notwithstanding anything contained in sub-section (1), the Board may, in such circumstances

as may be prescribed, suspend or remit wholly or partially the payment of both or either of the contributions by such landlords, tenants or land owners as it may specify in this behalf.

(4) Any contribution payable under this section shall, subject to the prior payment of the land revenue, if any, due to the Government thereon, be a first charge on such land or the interest in such land, as the case may be, held by the person liable to pay such contribution.

29. Liability of person in possession of land to pay contribution.—When any person primarily liable to pay any contribution under section 27 or 28 makes a default, the amount of such contribution, which may be due, shall be recoverable from any person in possession of the land:

Provided that where any amount is recovered under this section from a person who is not primarily liable for the same, such person shall be allowed credit for any payments which he may have duly made to the person who is primarily liable and shall be entitled to credit for the amount recovered from him, in account with the person who is primarily liable.

30. Presentation of budget estimates.—The budget estimates of the Board for each financial year shall be presented to the Board before the 1st day of March in the preceding financial year by the Chairman and the Budget as finally passed shall be subject to the approval of the Government which shall have power to reduce any item in the estimates of expenditure and to restore any provision which it considers to be essential for the safe and efficient conduct of the business of the Board.

31. Restriction on unbudgeted expenditure.—(1) Save where in the opinion of the Board circumstances of extreme urgency have arisen, no sum exceeding twenty-five thousand rupees shall be expended by the Board unless such sum has been included in the budget approved by the Government under section 30.

(2) Where any such sum is expended under circumstances of extreme urgency a report thereon shall be made as soon as practicable to the Government.

32. Custody and disbursement of moneys.—(1) All moneys received by the Board shall be credited into a separate account maintained for the purpose in the Government Treasury.

(2) All funds for disbursement shall be drawn by means of cheques which shall be signed by the Chairman of the Board or such other member of the Board as the Chairman may, with the approval of the Board, authorise in this behalf.

33. Provision for audit.—The accounts of the Board shall be maintained in such form and shall be subject to such audit, by such agency and on such terms and conditions as the Government may prescribe.

34. Supply of copies of budget and accounts.—The Board shall furnish each financial year to the Government a copy of its budget and of the accounts of the preceding financial year.

35. Fund. — (1) The Board shall have its own fund and the following moneys shall be placed to the credit thereof—

- (a) the fees received under section 26;
- (b) all contributions paid to the Board under section 27;
- (c) the annual maintenance contributions paid to the Board under section 28; and
- (d) fine levied under section 39.

(2) The balances of the fund and the interest accruing thereon shall be expended by the Board in such manner and for such purposes as may be prescribed.

36. Sinking fund. — The Board shall have also a sinking fund to which shall be credited the annual sinking fund contributions paid to the Board under section 28. The Board may apply the sinking fund to the repair of breaches in embankments included in a scheme caused by tempest, flood or other irresistible force and to such other purposes as may be prescribed.

37. Cutting of trees, grass, etc. prohibited. — No person shall cut any tree or grass or other vegetation growing on an embankment or within a distance of five metres from the base of such embankment, except with permission of the Maintenance Committee or the Board.

38. Damage to embankment or trees prohibited. — No person shall by any act or omission cause damage to any embankment or to the trees standing on the embankment or within a distance of five metres on either side from the base of the embankment, or to any sluice gate or other works.

39. Grazing on embankment prohibited. — (1) No person shall allow his cattle to graze on the embankment.

(2) Any cattle found to be grazing on an embankment shall be liable to be impounded by the Maintenance Committee or a servant of the Board.

(3) The cattle so impounded shall be released only on payment to the Board of a fine of five rupees per cattle and the maintenance charges at such rate as may be fixed by the Board from time to time.

40. Penalty. — (1) Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 13 or any of the regulations made under section 20 or does any act which causes damage to any of the works carried out under the scheme or contravenes the provisions of sub-section (1) of section 26 or sections 37, 38 or 39 or fails to comply with the conditions of a licence granted under sub-section (2) of section 26 or obstructs any person in the due exercise of his powers or execution of his duties under this Act or contravenes the provisions of any rules made under this Act, shall on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees or with both.

41. Recovery of amounts due. — All amounts due under this Act shall be recoverable as arrears of land revenue.

42. Right of entry. — For the purpose of preparing, sanctioning or executing any scheme or otherwise for carrying out of objects of this Act any person duly authorised by the Board or the Maintenance Committee appointed by the Board under this Act may after giving such notice as may be prescribed to the land owner or occupier or other person interested in any land enter upon and survey and mark out such land and do all acts necessary for such purposes.

43. Inquiries to be held. — (1) The person authorised under sub-section (2) of section 10 shall if he desires to make any inquiry before submitting his report under section 11, shall be competent to make such inquiry.

(2) Such person as well as the Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the Civil Courts.

44. Registration of document, plan or map in connection with scheme not required. — (1) Nothing in the Indian Registration Act, 1908 shall be deemed to require the registration of any document, plan or map prepared, made or sanctioned in connection with a scheme which has come into force under this Act.

(2) All such documents, plans and maps shall, for the purposes of section 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act:

16 of 1908

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

45. Certain person to be public servants. — The Chairman, members and Secretary, the members of any committee or officers appointed by the Board and the person authorized under sub-section (2) of section 10 shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860.

45 of 1860

46. Protection of persons acting in good faith. — No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules or regulations made thereunder.

(2) No suit or prosecution shall be instituted against any public servant or person duly authorized under this Act in respect of anything done or intended to be done under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

47. Rules. — (1) The Government may, by notification in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters:—

(a) the other objects for which a scheme may be prepared by the Board under clause (d) of sub-section (2) of section 8;

(b) the other particulars to be prescribed under clause (vii) of sub-section (2) of section 9;

(c) the period within which the Board shall submit the draft scheme and the period within which the Government may sanction the draft schemes under section 12;

(d) execution of a scheme under section 14;

(e) the manner of constituting a unit under sub-section (1) of section 21 and of a committee for such unit under sub-section (1) of section 21;

(f) matters connected with the acquisition of land, right or interest under section 22;

(g) the fees for the grant of a licence, the restrictions subject to which and the conditions on which a licence shall be granted, the form of the licence and the particulars to be contained therein under section 26;

(h) the manner in which and the extent to which the contribution payable under section 27 may be levied in lieu of cash payment;

(i) the manner in which, the rate at which and the conditions subject to which the annual maintenance contribution and the annual sinking fund contribution shall be levied and paid under sub-section (1) of section 28, and the circumstances in which the payment of any annual contribution may be suspended or remitted by the Board under sub-section (3) of the said section;

(j) the form of accounts to be maintained, the agency of audit and the terms and conditions of audit, under section 33;

(k) the manner in which and the purposes for which balances of the fund and the interest accruing thereon shall be expended under sub-section (2) of section 35;

(l) the other purposes for which sinking fund may be applied under section 36;

(m) the notice to be given under section 42;

(n) the manner in which the documents, plans and maps relating to the sanctioned scheme shall be accessible to the public under the proviso to sub-section (2) of section 44;

(o) any other matter which is or may be prescribed under this Act.

(3) All rules made under this Act shall be subject to the condition of previous publication and every rule shall be laid, as soon as may be after it is made, before the Legislative Assembly of Goa, Daman and Diu while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following the House agreed in making any modification in any such rule or the House agreed that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

48. Repeal and amendment. — (1) The enactments specified in Schedule I to this Act are repealed to the extent mentioned in the column (2) thereof.

(2) The enactment specified in Schedule II shall be amended to the extent mentioned in the column (2) thereof.

(3) Nothing in sub-sections (1) and (2) shall affect anything done or any action taken or any proceedings or any order passed or liability incurred under the enactments which have been repealed or amended and such order shall be in force as if this Act was not passed. Any proceedings started under any of the enactments which have been repealed or amended and pending on the date of the coming into force of this Act shall be continued and disposed of, as if this Act was not passed.

49. Power to remove difficulties. — If any difficulty arises in giving effect to the provisions of this Act (including any difficulty in relation to the transition from the enactments in force before the commencement of this Act to the provisions of this Act), the Government may, by order published in the *Official Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to it to be necessary or expedient for removing the difficulty:

Provided that no order shall be made under this section after the expiration of three years from the commencement of this Act.

SCHEDULE I

(See Section 48)

Enactment Repealed

Name of the enactment (1)	Extent of repeal (2)
Legislative Diploma No. 1776 dated 20th March, 1958	Clause (c) of Article 10, Article 12 and Article 13 shall be omitted.
The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (No. 7 of 1964)	Sub-sections (3), (3A), (4), (5) and (6) of section 26, sub-section (3) of section 38 and section 42-A shall be omitted.

SCHEDULE II

(See Section 48)

Name of the enactment (1)	Extent of amendment (2)
The Goa, Daman and Diu Agricultural Tenancy Act, 1964 (No. 7 of 1964)	In section 38, in sub-section (1) —
	(i) the words «the right to operate and the duty and responsibility of maintaining such sluice gate or other contrivance, as also» shall be deleted; and
	(ii) after the words «in the vicinity thereof, shall», the words «subject to the provisions of the Goa, Daman and Diu Khar Lands Act, 1969» shall be inserted.

Memorandum of delegated legislation

Clause 47 of the Bill consolidates at one place the various powers given to Government for framing rules under the various provisions of the Act for carrying into effect the provisions of the Act.

In accordance with the recommendations of the Committee on subordinate legislation it has been provided that the rules shall be prepublished and shall be laid on the table of the Legislative Assembly and be subject to such changes as the Assembly may make during the session in which they are so laid or the one immediately following.

The proposed delegation is of a normal character.

Financial memorandum

The Khar Lands Development Board will have to be provided with a paid Secretary who will have to be an officer of the rank of an Executive Engineer, and will have to be provided with technical staff consisting of Assistant Engineers, Overseers, draftsmen, Agricultural Assistants and Ministerial staff consisting of Head Clerk, Divisional Accountant, Accounts Clerks, U. D. Cs., L. D. Cs., steno-typist, etc. The total cost towards pay and allowances and contingencies, etc. over this staff will be of the order of Rs. 2,86,000.

In addition the Board will have to be provided every year with funds to enable it to undertake the work of repairs of the bunds. Half of the amount of the cost of the scheme will have to be borne by Government as subsidy and the remaining half will be recovered by the Board from the beneficiaries of the scheme in ten annual instalments as provided in clause 27(2). The total annual expenditure on account of subsidy will obviously depend on the number of schemes which are undertaken by the Board during a year and the total cost of these schemes. However, broadly it can be estimated that the Board may be able to undertake schemes costing about Rs. 16 lakhs during a year and that out of this an amount of Rs. 8 lakhs will have to be borne by Government as 50% contribution.

Statement of objects and reasons

The problem of repairs to the extensive bunds together admeasuring about 1500 kilometers existing in this territory and protecting the most fertile paddy fields and of ensuring their day to day maintenance so as to prevent breaches of a more serious nature, has been assuming seriousness since the enactment of the Tenancy Legislation. The existing law in the form of Diploma Legislative No. 1776 dated 20th March, 1958, or section 26 of the Tenancy Act, have been found to be quite inadequate to meet the requirements of the situation. It has, therefore, become expedient to constitute an independent statutory Board which could be charged with the duty and function of repairing and maintaining these bunds. The Bill, therefore, seeks to constitute a Khar Lands Development Board for the territory and to empower it with suitable powers necessary for this purpose. The important provisions of the Bill are explained in the following notes on clauses:

Clauses 3-9: Under clause 3, Government is empowered to establish a Khar Lands Development Board for this territory, which will consist of a Chairman to be appointed by Government and con-

sisting of 12 official and non-official members, as mentioned in sub-clause (2) of this clause. The non-official members will be nominated by Government. The term of office of the Chairman and the non-official members will be for a period of three years. The Board will be a body corporate and shall have perpetual succession. It will be competent for the Board to acquire and hold property both movable and immovable and to contract and do all things necessary for the purposes of this Act. It will transact business according to the regulations to be framed by it with the previous approval of Government. The Board will carry out its functions through the Secretary of the Board who is to be appointed by Government. The powers and duties of the Board are enumerated in clause 8 and clause 9 empowers the Board to prepare scheme for the purpose or carrying out its duties.

Clauses 10-16: These clauses provide for the manner in which a scheme prepared by the Board shall be published for inviting objections and the manner in which the scheme will be sanctioned by Government.

Clauses 15 and 16: These clauses provide for the manner in which a scheme already framed and sanctioned, may be varied.

Clause 17: Provides for revoking a scheme where Government is satisfied that it is necessary to do so.

Clause 21: For ensuring the proper day to day maintenance of the embankments and to carry out immediate repairs, clause 21 empowers the Board to form units of khar and tivals lands and for each such unit, constitute in the prescribed manner, a Maintenance Committee. This Maintenance Committee will also be a body corporate and will be competent to contract and do all things necessary for the purposes of the Act. The duties of the Maintenance Committee are enumerated in sub-clause (3). Sub-clause (4) empowers the Board to pay to the Maintenance Committee such annual grants as may be sanctioned by the Board having regard to the embankments in its charge. Sub-clause (5) empowers the Board to supersede the Maintenance Committee if the Chairman is of the opinion that the Maintenance Committee is unable to perform or has persistently made default in the performance of the duties imposed on it by or under the Act or has exceeded or abused its powers or has failed to carry out the directions issued to it by the Board or its officers.

Clause 22: This clause empowers Government, on an application of the Board, to acquire any land or the right or interest of any person in any land for the purpose of any scheme under the Act.

Clause 26: This clause empowers the Board to regulate the right of fishery in any water or any tidal or khar land.

Clause 27: This clause provides for the manner in which the cost of the scheme of repairs to the bund undertaken by the Board will be contributed. According to this provision 50% of the cost of the scheme will be borne by Government. The remaining 50% will be borne by the landowner if he is personally cultivating the land. If the land is leased to a tenant, the tenant will pay a contribution of 42% of the cost and the landlord will be liable to pay 8% of the cost. The contribution will be payable by the landowner, landlord or tenant in ten equal

or nearly equal yearly instalments. The first instalment will be payable before the 31st December of the year in which the crops are raised for the first time after the date of completion of the scheme. Sub-clause (4) of this clause empowers Government to frame rules for allowing the landowners, landlords and tenants to pay their contribution in the form of labour in lieu of cash payment.

Clauses 28 and 36: In order to enable the Board to meet the expenses of day to day repairs and for maintaining a watch on the bunds through the Maintenance Committee and also to build up a sinking fund for carrying out heavy repairs which may be caused due to abnormal tides, etc., the landowners, landlords and tenants of the lands protected by the embankments, are required to pay under these clauses to the Board an annual maintenance contribution and also an annual sinking fund contribution. The rate of these contributions and the manner of their payment is to be prescribed by rules.

Clauses 37-39: One of the reasons for weakening of the bunds is the indiscriminate cutting down of the trees which are planted on either side of the bunds and the cutting or grazing of the grass growing on the bunds. These clauses, therefore, prohibit

the cutting of the trees or the grass on the bunds and also prohibits the grazing of cattle on such bunds.

Clause 40: This clause provides for penalty for contravention of any of the provisions of the Act or the Rules.

Date: D. B. BANDODKAR
15th July, 1969. Chief Minister

Assembly Hall R. L. SEGEL
Panaji, Secretary to the Legislative
14th August, 1969. Assembly of Goa, Daman and Diu.

Administrator's recommendation under section 23 of the Goa, Daman and Diu Union Territories Act, 1963.

In exercise of the powers conferred upon him by sub-section (1) of section 23 of the Government of Union Territories Act, 1963, the Administrator of Goa, Daman and Diu has recommended to the Legislative Assembly the introduction and consideration of the Goa, Daman and Diu Khar Lands Bill, 1969.